

REMARKS/ARGUMENTS

The abstract has been amended to more clearly summarize the present invention. The specification has been amended to correct primarily grammatical errors, as well as to include a title that more specifically describes the present invention. The claims have been also amended to more clearly reflect the invention. Namely, claims 1-10 have been amended. Further, claim 11 has been canceled, while dependent claims 12-16 have been added. Even in light of these amendments, no new matter has been added. It would be appreciated if the Examiner would indicate the acceptance of this amendment in the next office communication.

Drawings

The Examiner indicated that since no drawings are included with the present application, the Examiner will consider the drawings of the foreign priority document and the drawings of the published US patent application to be the drawings illustrating the invention. The drawings of the foreign priority document and the drawings of the published US patent application do illustrate the present invention, and thus, the Applicant thanks the Examiner for considering those drawings as the drawings of the invention.

Specification

The Examiner stated that the title of the invention is not descriptive. Accordingly, the title has been amended to more specifically describe the present invention.

Claim Rejections - 35 USC § 112

The Examiner has rejected claims 1-11 under 35 USC § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In response, claims 1-10 have been amended to more clearly claim the present invention, and claim 11 has been cancelled. The Examiner also indicated that claims 3, 4, 6, 10 and 11 appear to be allowable if rewritten to overcome this rejection and to include the limitations of the base claim and any intervening claims. For the reasons set forth below, allowance of these claims, as dependent claims, is hereby solicited.

Claim Rejections - 35 USC § 102

The Examiner has rejected claims 1,2,5, and 7-9 under 35 USC § 102(b) as being anticipated by two prior art references, Verter (US 6,000, 568) and Nightengale (US 3,994,409). However, neither Verter nor Nightengale disclose every element of amended claim 1.

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For the reasons set forth below, withdrawal of the rejection of claim 1 and those claims depending therefrom is respectfully requested.

Verter

The Examiner has rejected claims 1, 2, 5, and 7-9 under 35 U.S.C. § 102(b) as being anticipated by Verter (US 6,000,568). However, Verter does not teach every claimed element, and thus, withdrawal of this rejection is respectfully requested.

Verter generally discloses a tamper evident closure for use in relation to a container having an externally threaded neck. (See column 1, lines 4-6.) Specifically, a closure 1 includes a skirt portion 2 and a skirt extension 3 located immediately below the skirt portion 2. (See column 2, lines 16-21.) The skirt extension 3 incorporates a flap 4 that is *permanently affixed* to the skirt extension 3 at a first end 5, as shown in Figure 1. (See column 2, lines 26-29, *emphasis added*.) A second and leading end 6 of the flap 4 is attached to the skirt by frangible bridges 7. (See column 2, lines 29-30.) During the initiation of an unscrewing operation, a leading edge of a tooth 8 on the second end 6 of the flap 4 abuts a tooth 9 on the neck of the container, as shown in Figure 2. (See column 2, lines 42-

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44.) Further unscrewing results in fracture of the bridge 7 and a radial outward movement of the flap 4, as depicted in Figure 3. (See column 2, lines 44-48.) The flap 4 eventually folds back on itself about a hinge 11, as shown in Figure 4. (See column 2, lines 48-49.) Thus, the flap 4 is not completely severed, but rather remains attached to the closure 1.

In contrast, the present invention is generally directed to a closure device with means for storing a tamper-evident tab. (See page 2, lines 15-17.) Specifically, a closure device 1 comprises three portions: a closure element 4, an annular skirt 5, and a tamper-evident tab that links the closure element 4 to the skirt 5, as shown in at least Figure 1. (See page 4, lines 3-7.) A line of lesser mechanical resistance 8 extends between the tamper-evident tab 6 and the closure element 4, and a line of lesser mechanical resistance 9 extends between the tamper-evident tab 6 and the skirt 5. (See page 4, lines 10-15.) There are means for accessing a storage space 18, which is defined between the neck 2 and the skirt 5 for storing the tamper evident tab 6 once the lines of lesser resistance 8 and 9 are torn. (See page 4, line 24 through page 5, line 14.) Such means may include a hole 14 which passes through a wall of the skirt 5. (See id.)

Accordingly, when a bottle 3 is opened for a first time, the tamper-evident tab 6 is *totally removed*, by tearing the lines of lesser resistance 8 and 9 to release the closure element 4. (See page 5, lines 18-22, *emphasis added*.) The tamper-evident tab 6 is then inserted into the storage space 18, such as through the hole 14, so that the tamper-evident tab 6 is stored out of the way of a user. (See page 5, 23-25.)

While Verter and the present invention are both generally directed to tamper-evident closures, Verter does not teach every element of independent claim 1 and thus those claims depending therefrom. First, Verter does not disclose "a third portion which forms a tamper evident tab linking the first portion to the second portion, and which is connected to the first and second portions by frangible means so that the tamper evident tab must be removed upon first use," as required by at least claim 1. Second, Verter also lacks a teaching of any comparable "storage means accessible through the second portion for allowing insertion of the tamper-evident tab therein once the tamper-evident tab has been separated from the first and second portions," as also required by amended claim 1. Since Verter does not disclose every element of independent claim 1 and those claims depending therefrom, for the reasons set forth below,

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withdrawal of this rejection is respectfully submitted.

First, Verter lacks a teaching of "a *third* portion which forms a tamper evident tab linking the first portion to the second portion, and which is connected to the first and second portions by frangible means so that the tamper-evident tab *must be removed upon first use*," as required by claim 1 and those claims depending therefrom. As stated above, the closure 1 of the Verter patent only has two portions, a skirt portion 2 and a skirt extension 3. While Verter does teach a flap 4, the flap 4 is integral with and *permanently affixed* to the skirt extension 3. Moreover, since the flap 4 is integral with the skirt extension 3, the flap 4 does not link the skirt 2 with the skirt extension 3. Thus, not only does Verter lack a teaching of a tamper-evident tab that must be removed upon first use, it also does not disclose a closure having three portions, wherein the third portion is a tamper-evident closure that links the first and second portions. Since Verter does not disclose all of the elements of independent claim 1, withdrawal of the rejection of that claim and those depending therefrom is respectfully requested.

Second, Verter further lacks a teaching of any "storage

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means accessible through the second portion for allowing insertion of the tamper-evident tab therein once the tamper-evident tab has been separated from the first and second portions," as required by at least amended claim 1. Since the amended claim 1 includes the phrase "means for," which is modified by the functional language, "for allowing insertion of the tamper-evident tab therein," claim 1 invokes 35 U.S.C. 112, ¶ 6. As such, Verter does not disclose this means-plus-function claim limitation because it does not teach any storage means that are comparable to the storage means disclosed in the specification of the present application.

As stated above, the storage means disclosed in the specification of the application provides access to a storage space 18 between the closure skirt 5 and the container neck 2 so that the tamper-evident tab 6 can be stored therein after it has been removed from the closure 1. While Verter does disclose a flap 4 that folds back onto itself, Verter does not teach any storage space between the skirt extension 3 and a neck 10 of a container. Further, while Verter does disclose that "[a]s the unscrewing motion continues the leading edge 6 of the flap together with the tooth 8 folds back at approximately one hundred and eighty degrees from their original position until they

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contact the inner surface of that portion of the flap between the hinge 11 and the first end of the flap 5," Verter provides no teaching that the flap 4 is stored in a space between the skirt extension 3 and the neck 10. Further, according to Verter, to open the container, the flap 4 is pushed radially outwardly from the skirt extension 3 by the tooth 9. Thus, the folding flap 4 of the Verter patent functions in a much different manner than the storage means of the present invention. Since Verter does not teach any storage means that are comparable to the storage means disclosed in the specification of the present application, withdrawal of this rejection is respectfully submitted.

Nightengale

The Examiner has rejected claims 1 and 7 under 35 U.S.C. § 102(b) as being anticipated by Nightengale, Jr. (US 3,994,409). However, Nightengale does not teach every claimed element, and thus, withdrawal of this rejection is respectfully requested.

Nightengale generally discloses an easy opening closure that has a tear strip that can be removed to permit removal of the closure. (See column 1, lines 5-11.) A closure 15 includes a tear strip 37, which divides the closure 15 into a closure section 39 and a retainer section 41, as shown in Figures 3 and

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4. (See column 3, lines 6-8.) The retainer section 41 has a tab 61 with a downwardly sloping slot 63 for *attaching* the tear strip 37 to the retainer section 41. (See column 4, lines 1-5, *emphasis added*.)

To open a container 13, a user removes the closure section 39 and the tear strip 37 from the retainer section 41 along a line of weakness 51 so that the closure section 39 and the tear strip 37 can be removed from the container 13. (See column 4, lines 24-47.) The tear strip 37 can then be used to attach the closure section 39 to the retainer section 41 by inserting the tear strip 37 into the slot 63, as shown in Figure 4. (See column 4, lines 48-52.) With the closure section 39 attached to the retainer section 41, the closure section 39 cannot be lost and the closure section 41 can reclose the container 13. (See column 4, lines 58-61.)

Accordingly, like Verter, Nightengale also lacks a teaching of any "storage means accessible through the second portion for allowing insertion of the tamper-evident tab therein once the tamper-evident tab has been separated from the first and second portions," as required at least by amended claim 1, because it does not teach any storage means that are comparable to the

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storage means disclosed in the specification of the present application. As previously stated, the storage means disclosed in the specification of the application includes an accessible storage space 18 between the closure skirt 5 and the container neck 2 so that the tamper-evident tab 6 can be stored therein after it has been removed from the closure 1. While Nightengale does disclose a tear strip 37 that attaches to the slot 63, Nightengale does not teach any storage space between the closure and the neck of the container. Further, Nightengale provides no teaching that the tear strip is stored in a space between the closure and the neck. In contrast, Nightengale teaches a tear strip that is attached to a slot 63 on an outer surface of the closure. Thus, the slot 63 of the Nightengale patent functions in a much different manner than the storage means of the present invention. Since Nightengale does not teach any storage means that are comparable to the storage means disclosed in the specification of the present application, withdrawal of this rejection is respectfully requested.

In view of the foregoing, reconsideration of the rejections is respectfully requested and favorable consideration and allowance of the claims solicited. Should the Examiner have any questions regarding this response, the amendments submitted

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herewith, or the allowability of the claims, it would be appreciated if the Examiner would contact the undersigned attorney of record at the telephone number provided below for purposes of facilitating prosecution of this application and for scheduling an interview, if necessary.

Respectfully submitted,

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